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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Brandon Martinez, Jeff Pile and Diana
Rodriguez, on behalf of
themselves and all others
similarly situated,

Plaintiffs,

v.

Toshiba America Information Systems,
Inc.; Toshiba Corporation; Toshiba
Lifestyle Products & Services
Corporation,

Defendants.

CASE NO. 2:16-cv-02551 R (PJWx)

NOTICE OF RELATED CASES

1 **TO THE COURT, DEFENDANT, AND COUNSEL OF RECORD:**

2
3 Plaintiffs Brandon Martinez, Jeff Pile, and Diana Rodriguez (“Plaintiffs”)
4 hereby submit, pursuant to Local Rule 83-1.3.1, this Notice of Related Case to
5 identify related litigation, either already pending, or recently filed in this District –
6 specifically:

- 7 • *Pierce-Nunes v. Toshiba America Information Systems, Inc., et al.*,
8 Case No. 2:14-cv-07242-DMG (KSx) (pending before Hon. Dolly M.
9 Gee);
10 • *Nance v. Samsung Electronics America, Inc.*, Case No. 8:16-cv-
11 00704.

12 A corresponding Notice of Related Cases is also being filed in the *Pierce-Nunes* and
13 *Nance* actions.

14 The *Pierce-Nunes* action concerns allegations that Toshiba America
15 Information Systems, Inc.; Toshiba Corporation; and Toshiba Lifestyle Services &
16 Products Corporation (collectively, “Toshiba”) misled and defrauded customers by
17 labeling LED-lit LCD televisions as “LED TVs.” Plaintiff in *Pierce-Nunes* is
18 seeking certification of a nationwide damages class consisting of: “All persons who
19 purchased, for personal use and not re-sale, within the United States, a Toshiba-
20 brand LED-lit LCD television on or after January 1, 2010 up through any trial of
21 this matter. The proposed class excludes any person or entity related to or affiliated
22 with Toshiba or who purchased such televisions for re-sale (e.g., retailers) and any
23 assigned judicial officer or staff and their immediate families.” Plaintiff also seeks a
24 variety of other classes or subclasses in the alternative. *See Pierce-Nunes v. Toshiba*
25 *America Information Systems, Inc.*, No. CV14-07242-DMG (KSx), ECF No. 169.
26 This case has been pending for some time and is at an advanced stage. Significant
27 discovery has been conducted and Plaintiff’s Motion for Class Certification is
28 pending (although not yet fully briefed).

1 The *Martinez* action asserts **similar if not identical** claims against
 2 Toshiba. The Plaintiffs in the *Martinez* action sought to be added as class
 3 representatives in the *Pierce-Nunes* action, but the deadline to add parties had
 4 passed and leave to amend was not granted. As such, these plaintiffs filed this
 5 action to further pursue their claims. See *Pierce-Nunes v. Toshiba America*
 6 *Information Systems, Inc.*, No. CV14-07242-DMG (KSx), ECF No. 162. The
 7 *Martinez* action arises from the same or closely related events, calls for the
 8 determination of the same or substantially related or similar questions of law and
 9 fact, and would entail substantial duplication of labor if heard by a different
 10 judge. L.R. 83-1.3.1(a)-(b)

11 The *Nance* action asserts similar if not identical claims against Samsung
 12 Electronics America, Inc. – and thus also arises from the same or closely related
 13 events, calls for the determination of the same or substantially related or similar
 14 questions of law and fact, and would entail substantial duplication of labor if heard
 15 by a different judge. L.R. 83-1.3.1(a)-(b). The plaintiff in the *Nance* action is
 16 seeking certification of a nationwide damages class consisting of: “All persons who
 17 purchased, for personal use and not re-sale, within the United States within the four
 18 years (or other applicable statute of limitations period) preceding the filing of this
 19 Complaint up through any trial of this matter, a Samsung-brand LED-lit LCD
 20 television with one of the model numbers (or prefix) set forth in the attached
 21 Schedule 1, or any other model number that is sold in a box that describes the
 22 television as an LED TV or LED HDTV or LED television.” Plaintiff also seeks a
 23 variety of other classes or subclasses in the alternative – essentially the same
 24 alternative relief Plaintiff seeks in the lead Toshiba case.

25 The *Nance* action alleges that Samsung disseminated the same type of false
 26 advertising as to similar televisions. Indeed, a substantial theme in the *Pierce-Nunes*
 27 *v. Toshiba* litigation is that Toshiba began advertising this way in response to
 28 Samsung’s deceptive advertising, which threatened to give Samsung a competitive

1 advantage in the market place. Moreover, and also as noted in Plaintiff's Motion for
 2 Class Certification in *Pierce-Nunes*, Toshiba and Samsung, among others, conspired
 3 to engineer an industry definition to help further and cover up the deception.

4 While the overlap among the Toshiba cases is obvious, the overlap between
 5 the Toshiba and Samsung matters is no less clear.

- 6 • The primary allegation is the same – that it is false and misleading to
 7 advertise LED-lit LCD TVs as “LED TVs.”
- 8 • The primary defenses on the merits and to class certification are likely
 9 to be the same – specifically, that alleged technical differences
 10 (supposedly specific to LED lighting) justify the nomenclature, and that
 11 state law and model-specific advertising (and customer knowledge)
 12 supposedly preclude nationwide or even state-specific certification.

13 Given the significant legal and factual overlap, it would not further the
 14 interests of the parties or the Court, or serve judicial economy, to have different
 15 judges rule on similar threshold motions to dismiss, to rule on similar discovery
 16 requests and objections (regarding, for example, pricing information and
 17 specification information), to rule on similar confidentiality concerns, to rule on
 18 substantially similar Motions for Class Certification, to oversee a trial on the merits,
 19 or to rule on all of the other ancillary motions and dispute that are likely to arise
 20 (e.g., motions in limine). While Plaintiff anticipates that Samsung and/or Toshiba
 21 will argue that there are factual differences in how they advertised the televisions
 22 and operate their respective businesses, there is little doubt that any such differences
 23 pale in comparison to the similarity of issues presented by the cases. Plaintiff is not
 24 seeking consolidation, but relation – so that maximum judicial and party efficiency
 25 can be achieved.

RESPECTFULLY SUBMITTED,

DATED: April 14, 2016

By: /s/ Hayward J. Kaiser

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*denotes pro hac vice application pending